



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

February 16, 1999

Honorable Leo Klagholz
Commissioner of Education
New Jersey Department of Education
225 West State Street, CN500
Trenton, New Jersey 08625-0500

Dear Commissioner Klagholz:

During the week of June 8, 1998, the Office of Special Education Programs (OSEP) conducted a follow-up visit to determine whether the New Jersey Department of Education (NJSDE) had ensured the correction of deficiencies with regard to implementation of Part B of the Individuals with Disabilities Education Act (IDEA) that had been previously identified by OSEP. The deficiencies were included in OSEP's May 18, 1994 monitoring report, as well as its June 10, 1996 follow-up report.

Although NJSDE has made progress in some previously identified areas of noncompliance, OSEP is deeply concerned about continuing noncompliance, most notably NJSDE's continuing failure to exercise its general supervisory authority over local school districts in the State, including ensuring that local school districts correct identified deficiencies in a timely manner. As a result of this failure by NJSDE, serious deficiencies have been allowed to exist for a number of years, impacting services for children with disabilities. OSEP has documented many of these continuing deficiencies in its prior monitoring reports to NJSDE from 1994 and 1996. The June 1998 follow-up visit documented that many previously identified problems remain uncorrected. These issues are addressed in detail in the enclosure to this letter.

The State must take action to ensure that the State's long-standing, serious noncompliance is effectively and promptly corrected throughout the State. NJSDE must develop a comprehensive corrective action plan with specific steps and timelines that will ensure that, within one year from the date of this Report: (1) all of the deficiencies in this Report are fully corrected throughout the State; and (2) NJSDE submits documentation, satisfactory to OSEP, that all corrective actions have been effective and that all public agencies in the State are in compliance. We encourage NJSDE to contact OSEP for technical assistance in developing the corrective action plan. We expect NJSDE's corrective action plan to be submitted to OSEP for approval within 45 days of your receipt of this Report.

Page 2 – Honorable Leo Klagholz

It is critical that NJSDE take immediate action to correct the noncompliance described in this Report. In order for OSEP to determine appropriate action regarding the State's Part B grant awards for Federal Fiscal Year 1999, we need to receive from NJSDE, no later than May 15, 1999, a report that documents the status, as of that date, of all corrective action steps. This documentation should include concrete evidence of actions taken since OSEP's June 1998 visit, such as monitoring reports and corrective actions; evidence of enforcement actions; changes in NJSDE's procedures; etc. At this time, we are concerned regarding the State's ability to demonstrate its eligibility for those grants.

I would like to again emphasize our commitment to working with you and the NJSDE staff to bring NJSDE into compliance with these requirements. Our staff and the Northeast Regional Resource Center remain available to provide technical assistance during the proposed visit and throughout this process.

Sincerely,

Judith E. Heumann
Assistant Secretary
Office of Special Education and
Rehabilitative Services

Thomas Hehir
Director
Office of Special Education Programs

Enclosure

cc Barbara Gantwerk

ENCLOSURE

OSEP'S FOLLOW-UP REVIEW PROCESS

Prior to the onsite review, OSEP convened a teleconference with parents and advocates from the State, who provided information in the areas identified as the focus of OSEP's follow-up visit, for the purpose of verifying the status of corrections set forth in OSEP's 1996 report to NJSDE. OSEP then identified four agencies (in three counties) to which it would conduct on-site visits to collect verification data.¹ OSEP staff also interviewed central administrative staff in Trenton at the beginning of the week, and then conducted an exit briefing of preliminary findings on Friday, June 12 with Ms. Gantwerk and other NJSDE staff.

ANALYSIS OF NJSDE'S COMPLIANCE EFFORTS

GENERAL SUPERVISION

Background: In its 1993 compliance review of NJSDE, OSEP found that in a number of critical areas, NJSDE had not exercised its general supervisory authority over programs providing special education and related services to children with disabilities. Specifically, NJSDE's monitoring system failed to include methods to monitor for implementation of many Part B requirements, particularly those related to the placement of children with disabilities in the least restrictive environment, provision of a free appropriate public education, and confidentiality of student records. In addition, OSEP found that NJSDE had not conducted a comprehensive monitoring in some local educational agencies for a number of years.

During the 1993 review, OSEP visited eight local agencies (including five school districts and three separate day programs) and identified deficiencies in the implementation of Part B requirements in each of those public agencies. OSEP required NJSDE to revise its monitoring procedures to include all identified deficiencies, to ensure correction of all identified deficiencies in all public agencies visited by OSEP, and to conduct training for teachers and administrators in areas where these deficient practices were identified.

During the 1995 follow-up visit, OSEP found that NJSDE had revised its monitoring procedures to include all required Federal components identified in the 1993 review, and had conducted extensive training and monitoring of most of the agencies visited by OSEP, in an effort to ensure correction of all identified deficiencies. OSEP visited seven public agencies in the State, including two local educational agencies visited during the 1993 review, and found that NJSDE had failed to ensure that all public agencies correctly implemented Federal Part B requirements in the areas of placement in the least restrictive environment, provision of a free appropriate public education

¹ OSEP conducted on-site visits to Hamilton Township School District in Mercer County, Mercer County Special Services School District, Woodbridge Township School District in Middlesex County, and Camden City Schools. Although OSEP did not conduct an on-site visit to Trenton School District, OSEP has also included information concerning NJSDE's monitoring and general supervision over the Trenton School District.

and provision of transition services. In the resulting 1996 report to the State, OSEP required NJSDE to conduct additional program reviews in these areas, conduct an analysis of the resultant data, and follow up, as necessary.

During the 1998 follow-up visit, OSEP visited programs in three counties in the State (a district program/local education agency in each county, and a receiving school in one of the counties). OSEP conducted interviews with teachers, related service providers and administrators and reviewed student records in each program, and found in each county continued noncompliance in each of the areas targeted for follow up investigation - placement of students with disabilities in the least restrictive environment, provision of a free appropriate public education (provision of appropriate related services and extended year programming) and provision of transition services.

Program Review Process: NJSDE's program review (monitoring) process, initiated in the 1991-92 school year, is intended to assist local educational agencies and other provider agencies (including approved private schools, receiving schools², public college operated programs and State facilities) to identify areas of strength and need, and receive technical assistance to ensure compliance with the State's program standards. Program review is an ongoing five year process, in which all special education programs in the State are monitored. During year one, all provider agencies are monitored on all State and Federal requirements. In years two through five, each local educational agency is monitored on specific program areas identified for that year (for example, in the current cycle, Year two focuses on expenditure of Federal funds and the provision of a free appropriate public education, Year three focuses on placement in the least restrictive environment and procedural safeguards, etc.).

The program review process is based on a "teach - test - technical assistance" model, in which NJSDE conducts training in the spring of each year for all County Supervisors of Child Study Teams³ (County Supervisors) and special education directors in the State for the following year's program review components. All entities then conduct a self-assessment on these components, in preparation for the onsite review the following school year. The onsite program review is conducted by the County Supervisors, who then prepare a report, and work with each entity in developing and implementing appropriate corrective actions.

² Receiving schools (or Special Services School Districts) are separate facilities operated by counties. Component districts in each county may place students in these facilities, which then contribute toward the cost of the child's education.

³ County Supervisors of Child Study Teams are assigned to each of the 21 counties in the State (one per county). These County Supervisors function as NJSDE's representatives "in the field," and are responsible for monitoring, technical assistance, complaint investigations, and implement State policy, among other responsibilities. NJSDE described these positions as the central office's "links" to the local educational agencies, allowing NJSDE to have a greater presence and impact on local programs across the State.

FINDING: OSEP finds that NJSDE has not exercised its general supervisory authority, as required by 20 U.S.C. 1412(a)(11) and 34 CFR §300.600. NJSDE's failure to implement an effective system for monitoring that enables it to identify and correct deficiencies in local districts has resulted in ongoing noncompliance across the State.

OSEP's concerns regarding NJSDE's responsibilities in this area involve both NJSDE's administrative structure as well as the organization and implementation of its monitoring process. Specifically, OSEP found that :

(1) NJSDE has not implemented consistent standards for County Supervisors to follow in monitoring, correcting deficiencies and providing technical assistance to school districts and receiving schools in the State, and has not provided supervision, guidance and training.

OSEP interviewed the County Supervisor in each of the three counties it visited. Each individual explained his/her role in providing technical assistance and supervision in the county, including specific details as to his/her involvement in the monitoring process. OSEP learned that the degree to which NJSDE's central office is apprised of the current status of each local educational agency and provider agency in complying with the program review components or progress with their corrective actions is inconsistent from one county to another.

OSEP found that each of the supervisors described a different level of involvement in the monitoring of the local educational agency in his/her respective county. One of the supervisors informed OSEP that the only information that is shared with NJSDE central office staff is the monitoring report, and the final "approval" letter that is issued by the County Supervisor when an entity has completed its corrective actions. Another County Supervisor stated that NJSDE is informed of all actions that each entity takes toward compliance, and that NJSDE maintains all documentation of the program review process in its central office. The third county supervisor interviewed had only recently been appointed to the position, had received no training on her role in State monitoring activities, and was unsure of the State's procedures with regard to monitoring and reporting progress towards compliance. All of the supervisors stated that when a local educational agency received its program review report, the agency was responsible for responding with an appropriate plan for corrective action, including specific activities and timelines. The supervisors assist the local educational agency as necessary, to clarify requirements or develop the corrective actions.

(2) County Supervisors, who implement NJSDE's monitoring and other compliance functions across the State, are not direct line employees of the New Jersey Office of Special Education Programs, but rather of the Division of Field Services, and the New Jersey Office of Special Education Programs has little or no control or leverage over these employees.

During the exit conference, OSEP was informed that this administrative structure creates problems when there are competing priorities or disagreements between the two offices - ultimately, the New Jersey Office of Special Education Programs has little impact or control over the activities of these individuals. When asked to explain and clarify the role of the County Supervisor in the correction of noncompliance in local school districts, NJSDE central administrative staff described the process by stating, ‘they (County Supervisors) take the information that we (NJSDE) give them and pass it along to the districts. We have no control over what they do with the information, or how the districts use it.’”

(3) NJSDE’s current monitoring system is ineffective in identifying noncompliance, and in those instances where noncompliance is cited, corrective actions are (and have been) ineffective.

OSEP reviewed NJSDE’s monitoring reports issued at the conclusion of Years two, three and four for each of the agencies visited by OSEP. With the exception of noncompliance noted in the Year Three review of Camden City Schools, NJSDE did not make any findings of noncompliance in any of these agencies in any of the other eight reports reviewed.

Interviews with County Supervisors and NJSDE’s central administrative staff revealed that NJSDE has no standardized procedures or standards that the County Supervisors are to apply in determining the sufficiency of the corrective action steps and timelines proposed by local education agencies to correct noncompliance identified by NJSDE. As a result, there is significant variation in the content and effectiveness of corrective action from county to county.

NJSDE’s ineffective system for identifying and correcting noncompliance has permitted deficiencies to persist over the course of five years and three OSEP onsite monitoring visits, in the provision of a free appropriate public education, placement in the least restrictive environment, and the provision of needed transition services. Although NJSDE took steps to conduct statewide training and dissemination of information and made revisions to its monitoring procedures subsequent to OSEP’s two prior monitoring reports, NJSDE has not ensured correction of deficiencies in local districts, and has not: (1) established a monitoring system that is effective at identifying compliance problems; and (2) implemented a corrective action system that secures compliance by public agencies. The following sections provide further information as to the findings in the areas of least restrictive environment, provision of a free appropriate public education, and provision of transition services, and each provide an example of NJSDE’s failure to correct and enforce Part B requirements statewide.

NJSDE’s lack of general supervisory authority over local districts in the State also can be illustrated by the example of NJSDE’s interaction with the Trenton School District. In June of 1997, the New Jersey Protection and Advocacy Agency filed a complaint with NJSDE alleging violations of State and Federal requirements related to the provision of a free appropriate public education in the least restrictive environment, conduct of reevaluations, development of IEPs,

provision of programs and services in accordance with IEPs, and failure to provide sufficient staff to meet the needs of students with disabilities, among others. NJSDE conducted an investigation into these allegations, and issued a complaint decision in January of 1998, in which NJSDE found the district in violation of all the allegations. The resulting report directed the district to participate in training sessions provided by personnel chosen and approved by the county office prior to the development of the corrective action plan. The training was to address each area of noncompliance, in a manner consistent with the IDEA Amendments of 1997, and was to commence within 45 days of receipt of the compliance report. The corrective action plan was to be developed within 30 days of the completion of the training (75 days from the issuance of the report of findings). The decision included no date by which corrective action must be completed. NJSDE central administrative staff informed OSEP that it has been extremely difficult to obtain information or cooperation from the district. At the time of OSEP's follow-up visit in June of 1998, NJSDE informed OSEP that Trenton School District had yet to submit its corrective action plan to the County Supervisor. NJSDE provided OSEP with correspondence between NJSDE and Trenton School District from August and September of 1998, which indicated that many of these issues remain unresolved.

Placement in the Least Restrictive Environment

Background: As discussed in the previous section, OSEP's 1994 monitoring report cited NJSDE's lack of specific methods to monitor Federal requirements related to placement in the least restrictive environment in its monitoring procedures, and NJSDE's failure to monitor the implementation of these provisions statewide. In addition, OSEP made findings of noncompliance in the area of placement in the least restrictive environment in each of the agencies it visited. The specific Federal Part B requirements cited included: 1) removal of students with disabilities from regular education (placement by category of disability/configuration of service delivery) (§300.550(b)(2)); 2) continuum of alternative placements available (§300.551(a)); 3) placements determined annually (§300.552(a)(1)); 4) placements based on the IEP (§300.552(a)(2)); and 5) participation of children with disabilities in nonacademic and extracurricular services and activities with nondisabled children (§300.553). The corrective action plan required NJSDE to inform public agencies in the State of these requirements, ensure correction of these deficiencies in these agencies, develop materials and provide training to teachers and administrators in their responsibilities in this area.

OSEP's 1996 follow-up report of NJSDE contained the following information as to the status of implementation of these requirements statewide: Progress had been made in documenting least restrictive environment decisions and in providing alternative methods of providing special education in less restrictive settings through resource centers since OSEP's 1994 Report was issued. OSEP found, however, that NJSDE did not meet its responsibility under §300.550(b) to ensure that public agencies remove a student from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily, as required by

§300.552(a)(2). In many cases, children with disabilities were removed from the regular education environment for reasons other than the child's needs. The reasons included large class sizes in the regular classroom, the classification disability of the child, the inability of the district to make modifications or provide supplementary aids and services in the regular classroom, and/or lack of availability of sufficient therapeutic or related services within the regular school district to meet the child's needs. For children with disabilities in self-contained and separate schools, OSEP also found a lack of opportunities for participation in nonacademic and extracurricular services and activities with their nondisabled peers.

Current status:

OSEP finds that NJSDE did not always meet its responsibility under §300.550(b) to ensure that public agencies remove a student from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily as required by §300.550(b)(2) and that NJSDE has not ensured that the education placement of each child with a disability is based on his or her IEP (§300.552(a)(2)). As stated previously, OSEP's 1998 onsite review included a review of student records; interviews with special education teachers regarding placement determinations made in IEP meetings in which they participated; and Child Study Teams and administrators regarding the placements practices and opportunities for students with disabilities and their nondisabled peers throughout public agencies and specific schools in the State. Based on this information, OSEP has determined that, except for the implementation of "in class support" (a placement option which allows for increased opportunities for students with disabilities to receive services in regular class settings) NJSDE has not demonstrated that local educational agencies and other provider agencies provide appropriate services to students with disabilities in the least restrictive environment in accordance with Federal requirements.

In the three agencies that OSEP visited, it found through record review and interviews with teachers, administrators and Child Study Team members that in many instances placement decisions for students with disabilities, especially students who were classified as "behavior disordered" and "educable and trainable mentally handicapped," are not based on the individualized needs of the student (including safety issues) in accordance with an IEP. Rather, placement decisions in these agencies are based on one or more of the following factors: category of disability; administrative convenience such as class size and available space; financial constraints that involve the availability of support staff (aides) and related services (i.e., counseling services); parent requests; attitudes of school personnel; and lack of training for regular education teachers. Many of these reasons for removal of children with disabilities from the regular education environment were cited in OSEP's 1996 follow-up monitoring report. In Hamilton Township School District, an administrator and members of the Child Study Team committee informed OSEP that students with severe behavioral needs were placed in a receiving school serving only students with disabilities because certain specialized programs and therapeutic services, such as counseling, could not be provided by the local educational agency. OSEP's visit

to this receiving school revealed that in many cases students were not, in fact, receiving counseling services in accordance with their individualized needs. This was also evident in the self-contained program in the separate school even though many of the children were placed in the facility in order to receive such services.

In Camden City Schools, all students who are classified as “educable or trainable mentally retarded” are placed in separate, segregated settings. When asked what it would take to serve these students in more integrated settings, an administrator stated “sensitivity training for teachers and a change in attitudes and perceptions.” A review of three student files from a high school self-contained classroom in this agency indicated that the reason listed for placement was “below grade level.” This rationale for placement was confirmed by the teacher and a member of the Child Study Team, who stated that in general, a child must be on grade level in order to receive special education services in a regular education class setting. In two additional files, the reasons that regular education was considered inappropriate was due to “low academic level.”

OSEP has determined that, for some students in self-contained settings, NJSDE has not ensured that regular education with supplementary aids and services is considered as a placement option each time an IEP is developed for individual students. In describing how placement decisions are determined at annual IEP meetings, one administrator and one teacher from Hamilton Township School District, and one administrator in the receiving school in Mercer County explained that regular education with supplementary aids and services is not considered as the first option for placement with students with disabilities who currently receive services in self contained settings. Rather, the IEP team’s review of placement, begins with the assumption that the student will remain in his/her current placement, and the team then determines whether there are additional portions of the day during which the student can be “mainstreamed” into regular education classes.

OSEP also finds that NJSDE has not ensured that each student with a disability is educated with nondisabled students, including participating in nonacademic and extracurricular services and activities, to the maximum extent appropriate to meet the needs of the student (§§300.550(b)(1) and 300.553). OSEP also finds that for children placed in separate, self-contained settings, participation in nonacademic and extracurricular services and activities with nondisabled students is not an individualized decision that is based upon an IEP.

Students who receive services in separate facilities have limited or no opportunities for participation with non-disabled peers in academics and nonacademics and extracurricular activities. This was confirmed through interviews with teachers and administrators in Hamilton Township School District and Mercer County Special Services School District.

Students at the preschool level in Hamilton Township School District were given very few opportunities to interact with nondisabled peers. Currently, only two of the 13 school districts in Mercer County provide services for the preschool nondisabled population. As a result, many

students in the preschool age range are transported to another school district where services are provided on a segregated campus (the separate program provided at the receiving school).⁴

A related service provider and a teacher at the high school level in the receiving school in Mercer County informed OSEP that students with disabilities can bring non-disabled students to events such as dances. This individual also explained that after school community activities are available.

However, there is no individualized determination as to the maximum extent to which each student with a disability can participate with nondisabled students in extracurricular and nonacademic activities and services. A teacher explained that criteria do not exist to assist IEP teams to determine the appropriate amount of integration for students; rather, these decisions are often based on "what is available." This individual stated they could "go back to their home school for some things but then they are back in their own environment. They are better off here [in the separate facility]." An administrator stated that some students do go back their home school district. However, this information was not indicated on the IEPs reviewed by OSEP.

NJSDE monitored all public agencies in the state during the 1995-96 school year, using monitoring procedures that were revised as part of the State's corrective action in response to OSEP's 1994 monitoring report. As noted in the General Supervision section of this report, OSEP's review of NJSDE's monitoring reports showed that NJSDE made no findings regarding placement in the least restrictive environment in Hamilton Township School District, Mercer County Special Services School District, and Woodbridge Township School District. NJSDE did find noncompliance in Camden City Schools regarding placement in the least restrictive environment, and determined, based upon documentation submitted in January 1997 by the District, that the noncompliance had been fully corrected. As explained above, OSEP found in June 1998 that agencies Hamilton Township School District, Mercer County Special Services School District, and Camden City Schools were not in compliance with Part B's least restrictive environment requirements.

Free Appropriate Public Education - Extended School Year

Background: In its 1994 monitoring report to NJSDE, OSEP identified several findings of noncompliance with the requirements of provision of a free appropriate public education, including: NJSDE's failure to monitor the implementation of the free appropriate public education requirements during the 1991-92 school year; service delivery was not in accordance with IEPs and changes were made in services without IEP reviews or revisions; services were

⁴ A district administrator in Hamilton Township School District informed OSEP that the agency has received a State discretionary grant for preschool students to provide appropriate programs and services "in district." Implementation would result in "bringing back" preschool students currently placed in this separate program in the receiving school.

based on the availability of service providers; and extended school year services were not considered for individual students as a component of a free appropriate public education. The corrective action plan required NJSDE to ensure that these deficiencies were corrected in the districts visited, and NJSDE was required to inform and train teachers and administrators as to their responsibilities in these areas.

Current status: OSEP found that in Mercer County Special Services School District, Woodbridge Township School District, and Camden City Schools, extended school year services were either not available or not considered for individual students, regardless of individual student need. In Mercer County Special Services School District, OSEP found that as a receiving district/facility, there was only an optional summer program available for students in this facility, regardless of need. During the spring of each school year, the facility sends out notices to all sending school districts, informing them of the number of vacancies and services that will be available. Each sending district determines whether it will provide funds for their resident student(s) to attend. The program is not individually determined nor part of the IEP process at this facility. All decisions regarding extended school year are made by the sending school districts outside of the IEP process. In Woodbridge Township School District and Camden City Schools, extended school year services are not available, considered nor determined on an individual basis. Each IEP reviewed by OSEP from Woodbridge Township School District contained the statement, “This student may participate in an extended school year program.” However, the only option available to special education students beyond the regular school year, regardless of need, was Camp PACE, which was described by staff and administrators as a voluntary summer camp for classified [special education-designated] students paid for by the Township. Participation in this program is not an option for fourth or fifth grade students.

OSEP interviewed three special education teachers and several agency administrative staff from Camden City Schools and determined that while the staff was able to articulate a regression/recruitment policy utilized in making decisions about participation in extended school year, there was no documentation of consideration of extended school year in any files reviewed in this district. These teachers and administrators indicated that extended school year was not discussed or considered in eligible children’s IEP meetings, as necessary to provide a free appropriate public education.

OSEP’s review of NJSDE’s monitoring reports to each of these agencies indicated that NJSDE did not make any findings of noncompliance with regard to the provision of a free appropriate public education (extended school year services) in any of the agencies visited.

Free Appropriate Public Education - Related Services

Background: In its 1994 monitoring report, OSEP found that NJSDE did not ensure that children with disabilities were provided related services in accordance with their IEP, as required by 34 CFR §§300.8(d) and 300.350. As part of the corrective action process, OSEP required

NJSDE to ensure correction of the identified deficiencies in the districts visited, and provide training and technical assistance to teachers and administrators in their responsibilities in this area.

In its 1996 follow-up report, OSEP found that NJSDE did not ensure correction of these deficiencies in two of the agencies. OSEP then required NJSDE to conduct statewide reviews of these requirements, conduct an analysis of the results, and, based on the results of that analysis, conduct follow-up program reviews in districts found to be out of compliance.

Current status: In its 1998 follow-up review, OSEP found that NJSDE did not ensure that students with disabilities received related services, as a component of a free appropriate public education. Through interviews and review of student records, OSEP found that, in Mercer County Special Services School District and Woodbridge Township School District, some related services were not provided in accordance with an IEP. In Mercer County Special Services School District, OSEP found that IEPs for several students listed counseling as a related service, but that the IEPs included no goals and objectives that addressed the student needs that necessitated the related service. Interviews with two teachers, an administrator and a related services provider revealed that group psycho-educational counseling is provided to all students in the facility in a group setting, as a course of study, without any individual determination, and that no other counseling services were available, regardless of student need. These individuals could not explain why there were no goals/objectives, nor what information parents were provided as to the purpose of counseling. A member of the Child Study Team, who functioned as a case manager for a class of students with emotional disturbance informed OSEP that if a student requires more intensive counseling (than that provided through the large group setting), the parent is notified, a referral is made to an outside agency and the parent is given a list of agencies to contact to arrange for services. Parents pay for counseling services in outside agencies. None of the students in this facility (receiving school) who were placed by their district for more intensive services, were receiving counseling or counseling related services as described on their IEPs.

In Woodbridge Township School District, the IEPs of students receiving counseling services had no goals and objectives that addressed the student needs that necessitated the related service. OSEP was informed that it is the practice of this agency to discuss overall general goals in terms of what is needed by the student, but that any goals discussed are not written into the IEP due to reasons of confidentiality. Any goals/objectives that might be developed are done by the teacher, therapist and child and are not part of the IEP process. All students participating in a self-contained program at the middle school level receive the same amount of counseling as “part of the program,” two times per week. If students need more than the standard group therapy, the school gives parents information regarding places to call to arrange for services, paid on a sliding fee scale.

OSEP’s review of NJSDE’s monitoring reports to each of these agencies indicated that NJSDE did not make any findings of noncompliance with regard to the provision of related services as a component of a free appropriate public education in any of the agencies visited.

Provision of Needed Transition Services

Background: In its 1994 monitoring report, OSEP found that in four of the public agencies visited, NJSDE did not ensure that files for students age 14 years or older⁵ contained a statement of needed transition services, as required by §300.346(b)(1), which included the content required by §300.18(b)(2). In its corrective action plan, OSEP required NJSDE to ensure that the deficient practices were corrected in those public agencies, and to inform and train teachers and administrators throughout the State as to their responsibilities in this area. At the time of OSEP's 1995 monitoring visit, NJSDE had completed all corrective actions relating to this area, but not all teachers and case managers from Child Study Teams had received this training. Further, of the 53 student files reviewed of students age 14 years or older in four public agencies, only one file included all of the required information for a statement of needed transition services. In reviewing NJSDE's monitoring reports for these agencies, OSEP found that while NJSDE cited all four districts for noncompliance with this element, the comments contained in the reports were so general that OSEP was unable to determine whether NJSDE was citing the districts for transition or another IEP requirement.

Current status: OSEP found that although NJSDE had received a transition systems change grant from the U.S. Department of Education, and is currently operating individual transition projects in 18 of the 21 counties, NJSDE has been unable to ensure compliance with these requirements statewide. During the 1998 follow-up visit, OSEP reviewed student files, and interviewed teachers, administrators and members of Child Study Teams in three of the four agencies visited. OSEP determined that transition requirements were not addressed in the IEPs in Woodbridge Township School District for students at the middle school level (ages 14 and 15). Teachers were unaware of the transition requirements or of how to include them in student IEPs. Although the IEP form contains spaces for "transition planning" on all 6 IEPs reviewed by OSEP, this section was marked "N/A" on all student IEPs reviewed by OSEP. OSEP did not review student records for middle school level students in Mercer County Special Services School District. However, an administrator from this agency informed OSEP that at the middle school level, students are given a career interest survey and are "exposed to different jobs," but that there is no formal transition planning. Administrators in Woodbridge Township School District confirmed that while there were some prevocational and job exploration activities available to students of this age, it is the practice at the middle school level not to document transition planning or transition activities on the IEP, and transition planning or transition activities are not part of the IEP process for 14-15 year olds.

⁵ New Jersey's State standards, as set forth in the New Jersey Administrative Code require that IEPs for all students age 14 and over, or younger, if determined appropriate, must include planning for transition to adulthood.

In Camden City Schools, OSEP found that transition statements in student IEPs did not include complete statements of transition planning, and did not document that students participated in transition planning. There also was no evidence that consideration of needed transition services was made on an annual basis. The IEP form in this agency includes a checklist and a general statement that the Human Resource Coordinator would act as a liaison to post secondary outcomes, and that the “attached IEP goals and objectives have been developed to meet the listed post secondary outcomes.” The only IEP goals and objectives found in the six IEPs reviewed by OSEP were related to academic courses in which the students were enrolled. The checklist format does not allow the reader to determine what was discussed for the individual student, what was needed/not needed and how any other agency might be involved in transition planning for a particular student. Although administrators indicated that there were transition planning activities taking place for many students, all three teachers interviewed from this agency were unaware of many of the transition requirements. Administrators from Camden City Schools informed OSEP that they were aware that the agency’s 1997-98 IEP format for transition was inadequate and they had instituted a new format for the 1998-99 school year, however, OSEP’s review of this document indicates that the new format does not meet all the transition requirements in a clearly understandable outcome-oriented manner.

OSEP’s review of NJSDE’s monitoring reports to each of these agencies indicated that NJSDE did not make any findings of noncompliance with regard to the provision of transition services requirements in any of the agencies visited.

Corrective Actions

FEDERAL REQUIREMENT	RESULTS/ACTIONS REQUIRED
<p>GENERAL SUPERVISION</p> <p>NJSDE must ensure that all public agencies meet the requirements of Part B and standards of the State.</p> <p>§300.600(a)(1) and (a)(2)(ii)</p>	<p>NJSDE will develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report,</p> <ol style="list-style-type: none"> 1.NJSDE’s monitoring system is effective in identifying noncompliance throughout the State regarding all Part B requirements; 2.NJSDE ensures that any noncompliance identified through monitoring is effectively and promptly corrected; and 3.NJSDE ensures that, when necessary because of uncorrected noncompliance by public agencies, including noncompliance identified through monitoring, NJSDE takes prompt and effective enforcement action. <p>NJSDE’s plan must include steps and timelines to ensure that personnel responsible for monitoring and for ensuring the correction of identified noncompliance are provided adequate training, guidance, and supervision, so that NJSDE can ensure effective and timely identification and correction of noncompliance. The plan must also identify any limitations on, or barriers to, NJSDE’s implementation of necessary enforcement procedures, and include any changes necessary to enable NJSDE to take enforcement actions and the timelines for completing those steps.</p> <p>The plan must include the procedures that NJSDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>
<p>PLACEMENT IN LEAST RESTRICTIVE ENVIRONMENT</p> <p>NJSDE must ensure that:</p> <p>Students with disabilities are</p>	<p>NJSDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report:</p> <ol style="list-style-type: none"> 1.Students with disabilities are removed from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily;

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<p>removed from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily [§300.550(b)(2)];</p> <p>Children participate with nondisabled in nonacademic and extracurricular to the maximum extent appropriate [§300.553]; and</p> <p>Placement individually determined based on IEP [§300.552(a)(2)]</p>	<p>2.Children with disabilities participate with nondisabled in nonacademic and extracurricular services and activities, to the maximum extent appropriate; and</p> <p>3.The placement for each child with a disability is based upon his or her IEP.</p> <p>The plan must include the procedures that NJSDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>
<p>FREE APPROPRIATE PUBLIC EDUCATION</p> <p>NJSDE must ensure that public agencies provide extended school year services to all students with disabilities who require such services to receive a free appropriate public education.</p> <p>NJSDE must ensure that all</p>	<p>NJSDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report:</p> <p>1.Extended school year services are provided to all children with disabilities who require them as a component of a free appropriate public education.</p> <p>2.All children who need counseling services to benefit from special education, receive such services consistent with their IEPs are provided as defined under §300.16(b)(8) for all students who need them to benefit from special education.</p> <p>The plan must include the procedures that NJSDE will implement to provide documentation to OSEP that</p>

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<p>public agencies make available a free appropriate public education to all children with disabilities in the State, including related services as set forth in §300.16.</p> <p>§§300.300, 300.8 and 300.16.</p>	<p>these corrective actions have been effective.</p>
<p>STATEMENT OF NEEDED TRANSITION SERVICES</p> <p>Beginning no later than age 16 (and at a younger age, if determined appropriate), each student's IEP includes a statement of the needed transition services as defined in §300.18. [§300.346(b)]</p>	<p>NJSDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report, beginning no later than age 16 (beginning at age 14, consistent with New Jersey's State standard, and at a younger age, if determined appropriate), each student's IEP includes a statement of the needed transition services as defined in §300.18.</p> <p>The plan must include the procedures that NJSDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>